

### **REMARKS/ARGUMENTS**

The final Office Action of January 25, 2008 has been carefully reviewed and these remarks are responsive thereto. Claims 1, 5, 7, 11, 13, and 17 have been amended, claims 21, 24, and 25 have been canceled without prejudice or disclaimer, and new claims 26-28 have been added. No new matter has been added. Claims 1, 2, 4, 5, 7-11, 13, 15-17, 19, 20, 22, 23, and 26-28 are pending in this application upon entry of the present amendment. Entry of the amendment, reconsideration and allowance of the instant application are respectfully requested.

#### ***Rejections Under 35 U.S.C. § 103***

Claims 1-2, 4-5, 7-11, 13, 15-17 and 19-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,721,953 (Bates), in view of U.S. Patent No. 6,614,987 (Ismail), and further in view of U.S. Patent Appl. Pub. No. US 2004/0049787 (Maissel). Applicant respectfully traverses these rejections for at least the following reasons.

Amended claim 1 recites, in part, “updating at least one of the first viewing threshold and the second viewing threshold automatically based on the received indication of the level of user satisfaction with the displayed first set of preferred broadcast programs.” (Emphasis added). None of the cited references, alone or in combination, teaches or suggests automatically updating a viewing threshold as recited in claim 1. Bates and Ismail, at most, only describe providing a user the option to manually update a threshold value. (See Bates, col. 8, lines 1-4, “As such, the threshold may be set at different levels...”, and Ismail, col. 11, lines 18-20, “The duration threshold may be either predetermined and set or may be variable depending on user preferences.”) Similarly, as the Office Action acknowledges on page 3, Maissel only describes “the user having a option to update the preference parameters.” See also, Maissel paragraph [0124]. Thus, even assuming, without admitting, that Bates, Ismail, or Maissel discloses updating thresholds, none of these references teaches or suggests “updating at least one of the first viewing threshold and the second viewing threshold automatically,” as recited in amended claim 1. (Emphasis added).

Claim 1 also recites “receiving an indication of a level of user satisfaction with the displayed first set of preferred broadcast programs,” and that the viewing thresholds are updated “based on the received indication of the level of user satisfaction.” The Office Action

correctly indicates on page 3 that neither Bates nor Ismail disclose updating viewing thresholds based on a received indication of user satisfaction with the displayed customized broadcast programs. However, the Office Action then alleges that Maissel discloses these claimed features in paragraphs [0041], [0046], and [0124]. Applicant disagrees with this characterization of Maissel. Even assuming, without conceding, that Maissel describes receiving a reaction from the user to customized schedule information in paragraph [0046], and describes permitting the user to manually update a threshold length in paragraph [0124], that still does not provide any support for the conclusion that Maissel teaches updating viewing thresholds based on the received indication of the level of user satisfaction. In fact, neither the relied-upon portions of Maissel, nor any other portion, teaches or suggests “updating at least one of the first viewing threshold and the second viewing threshold automatically based on the received indication of the level of user satisfaction with the displayed first set of preferred broadcast programs,” as recited in claim 1. (Emphasis added).

For at least the reasons discussed above, claim 1 is not obvious in view of the cited art. Independent claims 7 and 13 have also been amended to recite, “receiv[ing] via a user input connected to the apparatus an indication of a level of user satisfaction with the displayed first set of preferred broadcast programs,” and “updat[ing] at least one of the first viewing threshold and the second viewing threshold automatically based on the received indication of the level of user satisfaction with the displayed first set of preferred broadcast programs.” Therefore, for similar reasons to those discussed above regarding claim 1, amended claims 7 and 13 are also not obvious in view of the cited art.

Dependent claims 2, 4, 5, 8-11, 15-17, 19, 20, 22, and 23 are not obvious in view of the cited references for at least the same reasons as their respective base claims, as well as based on the additional features recited therein. For example, amended claims 4, 10, and 16 recite, “wherein receiving the indication of the level of user satisfaction comprises determining that the viewer returned to a complete schedule of programs more than a predetermined number of times.” The Office Action on page 4 correctly acknowledges that none of Bates, Ismail, or Maissel discloses this feature. However, the Examiner then rejects these claims by taking Official Notice of the fact that, “[the] more often the complete schedule of programs is accessed by the user, the less interest the current custom list is to the user.” Even if the alleged

fact is true in the abstract, this fact does not support the Examiner's subsequent conclusion that the specific technical features of claims 4, 10, and 16 are obvious in view of the cited references. That is, even if the Applicant were to agree that users generally access the complete program schedule when they are dissatisfied with the preferred program list, this fact in combination with the cited references still does not teach or suggest "determining that the viewer returned to a complete schedule of programs more than a predetermined number of times," or using that determination to update the viewing thresholds for the preferred broadcast programs list, as recited in claims 4, 10, and 16. Thus, Applicant submits claims 4, 10, and 16 are not obvious in view of any possible combination of the cited references and/or the alleged fact taken by Official Notice in the rejection of these claims.

### *New Claims*

Applicant has added new claims 26-28. No new matter has been added. New claims 26-28 each depend from claim 1 and are allowable over the cited references for same reasons discussed above, as well as based on the additional features recited therein.

For example, claim 27 recites, "wherein the received indication of the level of user satisfaction is based on a boolean user input corresponding to satisfaction with the displayed first set of preferred broadcast programs." Support for this feature can be found, for example, at page 11, lines 1-12 of the specification as originally filed. Although Maissel in paragraph [0046] briefly mentions determining "a reaction" of a user to customized program information, neither Maissel nor any of the other cited references teaches or suggests a "wherein the received indication of the level of user satisfaction is based on a boolean user input corresponding to satisfaction with the displayed first set of preferred broadcast programs," as recited in new claim 27. Accordingly, Applicant submits that new claim 27 is allowable over the cited references.

Claim 28 depends from claim 1 and further recites calculating the number of times that the user returns to the complete schedule of programs, and comparing that number to two different values to determine whether or not the viewing thresholds should be raised or lowered. As discussed above in reference to claim 4, none of the cited references teaches or suggests calculating and storing the number of times that the user returns to the complete broadcast schedule, or comparing that value to a predetermined number in order to update the viewing

thresholds for the preferred broadcast programs list. Thus, for similar reasons, Applicant submits that new claim 28 is allowable over the cited references.

### **CONCLUSION**

Based on the foregoing, Applicant respectfully submits that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicant's undersigned representative at the below-listed number.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

Dated this 27<sup>th</sup> day of May, 2008

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